



U.S. Department of Justice

Federal Bureau of Investigation
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Telecommunications Industry Liaison Unit
P.O. Box 220450
Chantilly, VA 20153-0450

December 17, 1997

By Hand Delivery

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

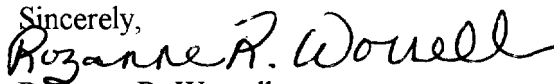
Re: *In the Matter of Communications Assistance for Law Enforcement Act*, CC
Docket No. 97-213 (released October 10, 1997)

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceeding is the original of the Federal Bureau of Investigation's Request for an Extension of Time to file reply comments *In the Matter of Communications Assistance For Law Enforcement Act*, CC Docket No. 97-213 (rel. October 10, 1997), and an accompanying Certificate of Service.

An additional copy of this request is enclosed to be stamped "received" and returned.

Thank you very much for your attention to this matter.

Sincerely,

Rozanne R. Worrell
Supervisory Special Agent
Federal Bureau of Investigation

Enclosure



Before the
Federal Communications Commission
Washington, DC 20554

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DEC 17 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)
)
Communications Assistance for Law)
Enforcement Act)
_____)

CC Docket No. 97-213

**Request of the Federal Bureau of Investigation
for An Extension of Time to File Reply Comments**

Pursuant to Sections 1.415 and 1.46 of the Federal Communications Commission's rules, 47 C.F.R. §§ 1.415, 1.46, the Federal Bureau of Investigation (FBI), by its attorneys, respectfully requests the Commission to extend the FBI's time to file its reply comments in the captioned proceeding regarding implementation of the Communications Assistance for Law Enforcement Act ("CALEA") by thirty (30) days, from January 12, 1998 to February 11, 1998.¹ This request also is submitted on behalf of the FBI-led Law Enforcement Technical Forum ("LETF"), which consists of representatives from more than fifty (50) Federal, state, and local law enforcement agencies. As grounds for its request, the FBI states the following:

I. THE FBI INTEREST

The FBI, member agencies of the LETF, and hundreds of other law enforcement agencies represented by the LETF in this proceeding regularly obtain and present electronic surveillance orders to carriers as part of their ongoing investigative efforts.² In addition, the Attorney General has delegated certain roles and responsibilities assigned to the Justice Department under CALEA to the FBI pursuant to 28 C.F.R. § 0.85(o).

¹ Communications Assistance for Law Enforcement Act, Pub. L. No. 103-414, 108 Stat. 4279 (1994) (codified as amended in sections of 18 U.S.C. and 47 U.S.C.).

² Federal electronic surveillance orders may be issued pursuant to Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. §§ 2510-2522 (referred to herein as "Title III"). Title III electronic surveillance orders pertain to the content of communications. Orders for the use of pen register and trap and trace devices, which provide call-identifying information, are issued pursuant to 18 U.S.C. §§ 3121-3127. Electronic surveillance and pen register and trap and trace orders may also be issued pursuant to state electronic surveillance statutes. In addition, electronic surveillance orders may be issued pursuant to the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. §§ 1801-*et seq.*

II. ARGUMENT

Although the Commission policy states that extensions of time are not routinely granted,³ the FBI believes several factors justify the grant of such an extension in this proceeding: (1) the FBI must coordinate its reply effort with--and obtain consensus from--approximately fifty (50) LETF members and other law enforcement agencies across the nation; (2) this rulemaking involves a complex subject matter that affects not only carriers, but hundreds of Federal, State, and local law enforcement agencies and prosecutors' offices; (3) the issues in this rulemaking invoke critical public safety and privacy concerns, the development of a complete record is particularly important in this matter; and (4) the current 30-day reply period coincides with the holidays, which further limits the FBI's undertaking.

A. The LETF. Following the enactment of CALEA, the FBI assembled the Law Enforcement Technical Forum ("LETF"), which consists of representatives from twenty-one (21) Federal and thirty (30) state and local law enforcement agencies, as well as the Royal Canadian Mounted Police. LETF members have participated in the development of the positions submitted with these comments. In turn, the FBI and the LETF have coordinated CALEA implementation issues, and developed consensus positions, with several hundred of the major law enforcement agencies and prosecutors' offices across the United States. Thus, in its representative capacity, the FBI must also canvas a multitude of diverse law enforcement agencies across the nation to develop and coordinate a consensus reply to the thirty-one (31) sets of comments filed in this proceeding. The result of this additional activity, under the current limit to the reply period, could preclude the FBI from fully presenting the views of Federal, State, and local law enforcement.⁴

³ See, e.g., *Access Charge Reform*, DA 97-157 (rel. Jan. 24, 1997) (30-day extension granted); *Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliate*, 10 FCC Rcd. 11043 (1995) (30-day extension granted); *Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliate*, 10 FCC Rcd. 10472 (1995) (30-day extension granted); *Alcatel Network Systems, Inc. Petition for Rulemaking to Amend Part 68 of the Commission's Rules*, 9 FCC RCD. 3577 (1994) (30-day extension granted); *Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. § 1464*, 5 FCC Rcd. 1931 (1990) (30-day extension granted).

⁴ See *Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliates*, 10 FCC Rcd. 11043, at ¶3 (need for a complete record regarding complex issues justified grant of an extension).

B. Complex Issues of Far-Reaching Import. It is likewise important for the Commission to grant an extension in this matter so the FBI has an opportunity to consider fully the potential impact of the positions taken by commenters on CALEA implementation issues.⁵ This proceeding will affect the way law enforcement conducts electronic surveillance and interacts with carriers for many years to come. Further, the results of this proceeding will have a direct bearing on the timeliness, security, integrity, and accuracy of future electronic surveillance. For public safety reasons, the FBI further believes that the Commission's rules establishing carrier policies and procedures must safeguard and promote the evidentiary integrity of electronic surveillance while not imposing an *undue* burden on industry. Thus, the outcome of this proceeding is critically important to the CALEA implementation process and the achievement of these goals. Striking the appropriate balance is a complex exercise that should be approached deliberately, not in haste.⁶

The Public Interest. As its legislative history articulates, CALEA was passed "to preserve the government's ability, pursuant to court order or other lawful authorization, to intercept communications involving advanced technologies such as digital or wireless transmission modes, or features and services such as call forwarding, speed dialing and conference calling, while protecting the privacy of communications and without impeding the introduction of new technologies, features, and services."⁷ This proceeding, therefore, invokes a variety of sensitive public policy concerns that require thoughtful and deliberate consideration by the Commission. The Commission's effort can only be aided by adding an additional thirty (30) days to the reply period, which will permit the FBI to "analyze and critique positions and factual assertions set

⁵ Among the key issues addressed by CALEA are the telecommunications entities covered by the statute and the obligations these entities must meet to ensure they will be able to comply with electronic surveillance orders. Further, as telecommunications technology evolves and new services and capabilities are introduced into the market, the Commission's role in evaluating whether, and how, CALEA's obligations will extend to new services or providers will become increasingly important.

⁶ See *Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliates*, 10 FCC Rcd. 10472, at ¶3 (need for a complete record regarding complex issues justified grant of an extension).

⁷ H.R. Rep No. 827, Cong., 2d Sess., 9, reprinted in 1994 U.S. Code Cong. & Ad. News 3489 (1994).

forth in the initial comments" and develop a complete and reliable record for the Commission's review.⁸

III. CONCLUSION

For all the foregoing reasons, the FBI respectfully requests that the Commission extend the time of the FBI to file its reply comments in the captioned proceeding by thirty (30) days, from January 12, 1998 to February 11, 1998.

Dated: December 17, 1997

Respectively submitted,
FEDERAL BUREAU OF INVESTIGATION



H. Michael Warren
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⁸ See *Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. § 1464*, 5 FCC Rcd. 1931, at ¶4.

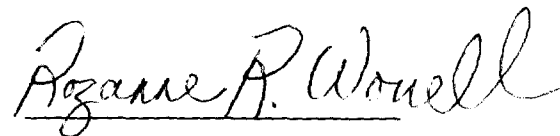
Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Communications Assistance for)	CC Docket No. 97-213
Law Enforcement Act)	

Certificate of Service

I, Rozanne R. Worrell, a Supervisory Special Agent in the office of the Federal Bureau of Investigation (FBI), 14800 Conference Center Drive, Suite 300, Chantilly, Virginia 20151, hereby certify that, on December 17, 1997, I caused to be served, by first-class mail, postage prepaid (or by hand where noted) copies of the **FBI's Request for an Extension of Time to File Reply Comments *In the Matter of Communications Assistance For Law Enforcement Act*, CC Docket No. 97-213 (rel. October 10, 1997).** The original request for an extension of time is filed herewith and upon the parties identified on the attached service list.

DATED at Chantilly, Virginia this 17th day of December, 1997.



Rozanne R. Worrell

**IN THE MATTER OF
COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT
CC DOCKET NO. 97-213
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